

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ARVIN UNION ELEMENTARY SCHOOL
DISTRICT.

OAH Case No. 2016050314

ORDER DENYING REQUEST FOR
CONTINUANCE

On June 1, 2016, Arvin Union Elementary School District filed a request to continue the dates in this matter with the Office of Administrative Hearings, because school staff, who will be witnesses, are on summer break during the dates currently scheduled for hearing and because the attorney for Arvin is scheduled to be in another due process hearing on that date. No response was received from Student.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. General statements regarding staff being out of school for

summer break do not constitute good cause for a continuance of a due process matter. Due process procedures and timelines are not tolled during summer break. Only specific claims of unavailability for specific witnesses based on reasons other than summer break will be considered when determining if good cause for a continuance exists. Further, Arvin's attorney provided no information regarding the other hearing, including the case number, likelihood of the hearing going forward, location of the hearing or whether another attorney is available for either that hearing or in this case. Therefore, this request for continuance is denied.

IT IS SO ORDERED.

DATE: June 7, 2016

DocuSigned by:
Margaret Broussard
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MARGARET BROUSSARD
Presiding Administrative Law Judge
Office of Administrative Hearings